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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R09-OAR-2018-0181; FRL-9980-49-Region 9]

Approval and Promulgation of Air Quality State Implementation Plans; California; Chico Redesignation Request and Maintenance Plan for the 2006 24-hour PM_{2.5} Standard.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve, as a revision of the California state implementation plan (SIP), the State's request to redesignate the Chico nonattainment area to attainment for the 2006 24-hour fine particulate matter (PM_{2.5}) National Ambient Air Quality Standard (NAAQS or “standard”). The EPA is also taking final action to approve the PM_{2.5} maintenance plan and the determination that contributions from motor vehicle emissions in the Chico nonattainment area are insignificant. The EPA is approving this revision because it meets the requirements of the Clean Air Act (CAA or “the Act”) and EPA guidance for such plans.

DATES: This rule is effective on **[Insert date 30 days after the date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2018–0181. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by

statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the FOR FURTHER INFORMATION CONTACT section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas, Air Planning Office (AIR-2), Environmental Protection Agency, Region IX, (415) 972-3964, vagenas.ginger@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” or “our” refer to the EPA.

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I. Background

On July 18, 1997, the EPA established the first air quality standards for PM_{2.5}.¹ The EPA promulgated an annual standard at a level of 15.0 micrograms per cubic meter (µg/m³) based on a 3-year average of annual mean PM_{2.5} concentrations. In the same rulemaking, the EPA promulgated a 24-hour standard of 65 µg/m³ based on a 3-year average of the 98th percentile of 24-hour concentrations. On October 17, 2006, the EPA retained the annual average NAAQS at 15.0 µg/m³ but revised the 24-hour PM_{2.5} NAAQS to 35 µg/m³, based on the 3-year average of the 98th percentile of 24-hour concentrations.²

Effective December 14, 2009, the EPA established initial air quality designations under subpart 1 of the Act for most areas in the United States for the 2006 24-hour PM_{2.5} NAAQS,

¹ 62 FR 38652.

² 71 FR 61144.

including the Chico area.^{3, 4} Under subpart 1, within three years of the effective date of designations, states with areas designated as nonattainment for the 2006 24-hour PM_{2.5} NAAQS are required to submit SIP revisions that, among other elements, provide for implementation of reasonably available control measures (RACM), reasonable further progress (RFP), attainment of the standard as expeditiously as practicable but no later than five years from the nonattainment designation (in this instance, no later than December 14, 2014), as well as contingency measures.^{5, 6} Prior to the due date for these submissions, the California Air Resources Board (CARB or “State”) requested that the EPA make a determination that, based on quality assured and certified data from the 2008-2010 period, the Chico PM_{2.5} nonattainment area had attained the 2006 24-hour PM_{2.5} NAAQS.⁷ In addition to requesting a finding of attainment, the State requested that the EPA suspend the attainment-related planning requirements.

Effective October 10, 2013, the EPA determined that the Chico nonattainment area had attained the 2006 24-hour PM_{2.5} standard based on the 2010-2012 monitoring period.⁸ Based on that determination and pursuant to 40 CFR 51.1004(c), the requirements for this area to submit an attainment demonstration, together with RACM, an RFP plan, and contingency measures for failure to meet RFP and attainment deadlines were suspended for so long as the area continued to

³ All 1997 and 2006 PM_{2.5} NAAQS areas were designated under subpart 1 of the Act. Subpart 1 contains the general requirements for nonattainment areas for any pollutant governed by a NAAQS and is less prescriptive than the other subparts of title I, part D. *See* 74 FR 58688 (November 13, 2009).

⁴ The boundaries for this area are described in 40 CFR 81.305.

⁵ *See* CAA sections 172(a)(2), 172(c)(1), 172(c)(2), and 172(c)(9).

⁶ In response to a decision issued by the D.C. Circuit (*Natural Resources Defense Council v. EPA*, 706 F.3d 428 (D.C. Cir. 2013)), the EPA subsequently identified all PM_{2.5} nonattainment areas for the 1997 and 2006 NAAQS as “moderate” nonattainment areas under subpart 4 and established a new SIP submission date of December 31, 2014, for moderate area attainment plans and for any additional attainment-related or nonattainment new source review plans necessary for areas to comply with the requirements applicable under subpart 4. We also noted that the moderate area attainment deadline under subpart 4 is no later than December 31, 2015. *See* 79 FR 31566 (June 2, 2014).

⁷ Letter from James N. Goldstene, Executive Officer, CARB, to Jared Blumenfeld, Regional Administrator, EPA Region IX, dated June 2, 2011.

⁸ 78 FR 55225 (September 10, 2013).

attain the 2006 24-hour PM_{2.5} NAAQS or until the area is redesignated to attainment.⁹ The EPA subsequently issued a determination that the Chico PM_{2.5} nonattainment area had attained the 2006 24-hour PM_{2.5} NAAQS by the applicable attainment date of December 31, 2015, based on 2013-2015 data.¹⁰ On December 18, 2017, CARB submitted the “Chico, CA/Butte County PM_{2.5} Nonattainment Area Redesignation Request and Maintenance Plan” (“Chico PM_{2.5} Plan” or “Plan”) and requested that the EPA redesignate the Chico PM_{2.5} nonattainment area to attainment for the 2006 24-hour PM_{2.5} NAAQS.

On May 9, 2018, the EPA issued a notice of proposed rulemaking to approve California’s request to redesignate the Chico PM_{2.5} nonattainment area to attainment for the 2006 24-hour PM_{2.5} standard, as well as proposing to approve California’s 10-year maintenance plan for the area.¹¹ We also proposed to determine that the emission contributions from motor vehicles are insignificant. The proposed rulemaking set forth the basis for determining that California’s redesignation request meets the CAA requirements for redesignation for the 2006 24-hour PM_{2.5} standard and provided an extensive background on the 2006 24-hour PM_{2.5} standard, CAA requirements for redesignation for the 2006 24-hour PM_{2.5} standard, and their relationship to air quality in the Chico nonattainment area.

Our proposed rulemaking also described the complete, quality-assured, and certified air quality monitoring data for the Chico nonattainment area for 2014-2016 showing that this area continued to attain the 2006 24-hour PM_{2.5} standard. Certified data for 2017 and preliminary data

⁹ For more information on the regulatory basis for determining attainment of the NAAQS, see the proposed determination of attainment at 77 FR 65651 (October 30, 2012).

¹⁰ 82 FR 21711 (May 10, 2017).

¹¹ 83 FR 21238.

for 2018 from non-regulatory monitors available on CARB's real-time web site are also consistent with continued attainment of the standard.¹²

The EPA's proposed action provided a 30-day public comment period. During this period, we received one anonymous comment. After reviewing the comment, we determined that it was outside the scope of our proposed action and that it fails to identify any material issue necessitating a response. The comment has been added to the docket for this action and is accessible at <https://www.regulations.gov/docket?D=EPA-R09-OAR-2018-0181>.

II. Today's Final Actions

Based on our review of the Chico PM_{2.5} Plan submitted by CARB, air quality monitoring data, and other relevant materials, and for the reasons described in our proposed rule, the EPA is approving under CAA section 107(d)(3)(D) the State's request to redesignate the Chico PM_{2.5} nonattainment area to attainment for the 2006 24-hour PM_{2.5} NAAQS. We are doing so based on our conclusion that the area has met the five criteria for redesignation under CAA section 107(d)(3)(E): 1) the area has attained the 24-hour PM_{2.5} NAAQS in the 2014-2016 time period and has continued to attain the PM_{2.5} standard since that time; 2) the relevant portions of the California SIP are fully approved; 3) the improvement in air quality is due to permanent and enforceable reductions in emissions; 4) California has met all requirements applicable to the Chico PM_{2.5} nonattainment area with respect to section 110 and part D of the CAA; and 5) the Chico PM_{2.5} Plan meets the requirements of section 175A of the CAA.

Under CAA section 110(k)(3), the EPA is also approving the Chico PM_{2.5} Plan as a revision to the California SIP. The EPA finds that the maintenance demonstration shows that the

¹² CARB's real-time AQMIS (Air Quality and Meteorological Information System) database can be found at: <https://www.arb.ca.gov/aqmis2/aqmis2.php>. AQMIS provides a combination of preliminary real-time data from both non-regulatory and regulatory monitors in addition to historical regulatory data.

area will continue to attain the 2006 24-hour PM_{2.5} NAAQS for at least 10 years beyond redesignation (*i.e.*, through 2030) and that the contingency provisions, which describe the actions that the Butte County Air Quality Management District (BCAQMD) will take in the event of a future monitored violation, meet all applicable requirements for maintenance plans and related contingency provisions in CAA section 175A. The EPA is also taking final action to approve the emission determination that contributions from motor vehicle emissions in the Chico nonattainment area are insignificant. The EPA is finalizing these actions because the SIP revision meets the requirements of the CAA, its implementing regulations, and EPA guidance for such plans.

III. What Are the Effects of Today's Actions?

The EPA's approval of California's redesignation request changes the legal designation of a portion of Butte County (the Chico nonattainment area) for the 2006 24-hour PM_{2.5} NAAQS, found at 40 CFR part 81, from nonattainment to attainment. Approval of BCAQMD's associated SIP revision also incorporates a plan for maintaining the 2006 24-hour PM_{2.5} NAAQS in the Chico area through 2030 into the California SIP. The maintenance plan identifies contingency measures to remedy any future violations of the 2006 24-hour PM_{2.5} NAAQS.

As a result of the EPA's motor vehicle insignificance finding, the Butte County Association of Governments is no longer required to perform regional emissions analyses for either directly emitted PM_{2.5} or nitrogen oxides as part of future PM_{2.5} conformity determinations for the 2006 24-hour PM_{2.5} NAAQS for the Chico area. The EPA's insignificance finding should, however, be noted in the transportation conformity documentation that is prepared for this area. Areas with insignificant regional motor vehicle emissions for a pollutant or precursor are still required to make a conformity determination that satisfies other relevant conformity

requirements such as financial constraint, timely implementation of transportation control measures, and project level conformity.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). We offered to consult with the Enterprise Rancheria of Maidu Indians of California, the Berry Creek Rancheria of Maidu Indians of California, the Mooretown Rancheria of Maidu Indians of California, and the Mechoopda Indian Tribe of Chico Rancheria, which have lands within the Chico PM_{2.5} nonattainment area. The tribes did not respond to the EPA's offer to consult.

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a

copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Ammonia, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: June 26, 2018.

Deborah Jordan
Acting Regional Administrator,
Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(506) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *

(506) The following plan was submitted on December 18, 2017, by the Governor's designee.

(i) [Reserved]

(ii) *Additional materials.* (A) Butte County Air Quality Management District.

(1) “Chico, CA/Butte County PM_{2.5} Nonattainment Area Redesignation Request and Maintenance Plan,” adopted October 26, 2017.

(2) [Reserved]

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PURPOSES

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart C—Section 107 Attainment Status Designations

4. Section 81.305 is amended by revising the entry for “Chico, CA” in the table entitled “California—2006 24-Hour PM_{2.5} NAAQS [Primary and secondary]” to read as follows:

§ 81.305 California.

* * * * *

California—2006 24-Hour PM_{2.5} NAAQS

[Primary and secondary]

Designated area	Designation ^a		Classification	
	Date ¹	Type	Date ²	Type
Chico, CA:				
Butte County (part)	[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATIO N IN THE FEDERAL REGISTER]	Attainment		
That portion of Butte County which lies west of the line described as follows: (Mount Diablo Base and Meridian) Beginning at the intersection of the Butte-Yuba county line and the township line common to T18N R6E and T19N R6E,				

west to the township line common to T18N R6E and T19N R6E, then north along the range line common to R5E and R6E, then west along the township line common to T21N and T20N, then north along the range line common to R4E and R5E, then west along the township line common to T24N and T23N to the Butte-Tehama County boundary.				
* * * * *				

^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ This date is 30 days after November 13, 2009, unless otherwise noted.

² This date is July 2, 2014, unless otherwise noted.

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[FR Doc. 2018-14445 Filed: 7/10/2018 8:45 am; Publication Date: 7/11/2018]